

Application No.: 10/798,357

Docket No.: K8098.0000/P017

REMARKS

Claims 1-15, 20 and 21 have been canceled, without prejudice. Claims 16-19 and 22-26 remain in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications. The handle aspects of now-canceled claims 20 and 21 should be covered at least by the broader claims from which they originally depended.

Claims 16-19 and 22-26 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-12 and 16-22 of Application No. 10/405,468 in view of Boyn. Reconsideration is respectfully requested. Each claim of the '468 application recites at least one of the following limitations: "the top edges of the gift bag have a double thickness of said napped filamentary material such that the napped filamentary surface extends over the top edges of the gift bag and onto a portion of the inner surface of the gift bag"; "said handles are attached to the front and rear panels by passing through a pair of holes in each of said panels"; and "said handles are covered in said napped filamentary material." The pending claims of the present application do not recite any such limitations, and Boyn is cited in the Office Action for other features. Thus, the pending claims of the present application should not be considered obvious variations of the claims of the '468 application. See M.P.E.P. § 804(B)(1), page 800-22.

Claims 16-19 and 22-26 are rejected under 35 U.S.C. § 103 as being unpatentable over Springer in view of Boyn. Reconsideration is respectfully requested. Springer and Boyn, even when considered together, fail to suggest the outwardly facing surface recited in claims 16-19 and 22-26. According to the pending claims, the "entire outwardly facing surface of said gift bag is completely formed from a napped

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filamentary material." There is nothing in the references to suggest it would have been obvious to cover the entire outward facing surface of the Springer bag with napped filamentary material. Consequently, the rejection of claims 16-19 and 22-26 should be withdrawn.

The Office Action contends that the mere duplication of essential parts might be considered obvious, regardless of any other showing in the prior art. Without conceding the merits of such contention, Applicant notes it is not applicable to the present situation. The differences between the claimed invention and Springer modified in view of Boyn represent more than the mere duplication of parts. Even if the Springer gift bag 93 (Fig. 5) were somehow provided with a second face 91, 111, for example, on the back panel 97, the bag 93 would still not have its "entire outwardly facing surface . . . completely formed from a napped filamentary material."

Allowance of the present application with claims 16-19 and 22-26 is solicited.

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Respectfully submitted,

By 

Mark J. Thronson

Registration No.: 33,082

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP

2101 L Street NW

Washington, DC 20037-1526

(202) 775-4742

Attorneys for Applicant